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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/075,442	02/15/2002	Partha Neogi	P 0290459 08948-010001	1127
909	7590	08/23/2004	EXAMINER	
PILLSBURY WINTHROP, LLP			REYES, HECTOR M	
P.O. BOX 10500				
MCLEAN, VA 22102			ART UNIT	PAPER NUMBER
			1625	

DATE MAILED: 08/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/075,442	NEOGI ET AL.	
	<b>Examiner</b> Hector M Reyes	<b>Art Unit</b> 1625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 10 March 2004.  
 2a) This action is **FINAL**.      2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 26,27,47,48,67,68 and 73-78 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 26,27,47,48,67,68 and 73-78 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date 3/10/04.

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

**DETAILED ACTION**

**Status of the Claims**

Claims 1-25, 28-46, 49-66 and 69-72 have been canceled. Claims 26-27, 47-48, 67-68, 73-78 are currently under Examination.

**Specification Objections**

The disclosure is objected to because of the following informalities: The text of the specification is not clear, some letters are faded, specially the first letters near the left margins of the page; some tables have faded lines (see page 2), some apparent coma sings are faded to the extend that are more likely to be apparent period sings. Scheme I, as disclosed in the Preliminary Amendment is also objected to because the letter Scheme as a double S and because overlap of rings in the first structure having three rings.

ring since the value of t, u, y, x and w can be zero. Hydrogen is included within the definition of A, A' B, B' and C groups and therefore excluded as a possibility when all the variables t, u, y, x and w are 0. In such instances, it is not indicated which substituents are found in any of the rings and therefore in such case the definition of the claimed compounds is indefinite. Definition of the substituents on the ring when t, u, y, x and w are zero is required in order to clarify both claims.

**Claims Objections**

Claims 47, 73, 75, 67 and 77 are objected to under 37 CFR 1.75 as being a substantial duplicate of claim 26. When two claims in an application are duplicates or else are so close in content that they both cover the same thing,

despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k). In the instant case, regardless of the intended used, the limitations of the said pharmaceutical compositions are the same, thus all the said claims are drawn to the same composition.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claims 26, 27, 47, 48, 67 68 and 73- 78 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In the said claims, both carbon atoms in the ethylene moiety para with respect to the phenoxy group are defined as stereocenters (\*). Nonetheless the substituents R” embraces instances wherein the said group is hydrogen, therefore the said carbon atom bearing R” cannot be chiral because two of their substituents are the same: hydrogen. Similarly, R' and R” cannot be defined as hydrogen atoms when the carbon bearing the said R groups is simultaneously defined as a chiral carbon. Proper definition of the moieties in formula II is requested.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 26, 47, 67, 73, 75 and 77 are rejected under 35 U.S.C. 102(b) as being anticipated by Takahashi et al, JP 63290842 (1988).

Takahashi discloses a method for preparing 2-(substituted phenyl) propionic acid or alkyl ester thereof, useful as pharmaceutical or intermediates thereof, useful as antipyretic, analgesic, and anti-inflammatory, see page 3 in translation, lines 5-18.

The said alkyl esters are of lower alcohols and the substituted phenoxy derivative includes the 4-phenoxyphenyl derivative, see page 8, lines 11-22.

#### **Allowable Subject Matter**

No prior art disclosing or suggesting methods for lowering glucose, lowering serum triglycerides or lowering blood pressure comprising the aryl propionic acid derivatives described in the instant set of claims was not found.

**CONCLUSION**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hector M Reyes whose telephone number is (703) 605-1153. The examiner can normally be reached on M-F 9 to 4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Rotman can be reached on (703) 308-4698. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-4556 or (for regular communications and (703) 308-4242 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

August 16, 2004  
AU 1625  
Héctor M. Reyes PhD JD

*Cecilia Tsay*